

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts

D.T.E.
01-20

Comments and Proposal by AT&T Regarding

CLEC Coalition Motion for Extension of Time to File Rebuttal Testimony

The so-called CLEC Coalition has filed a motion asking the Department, among other things, to push back the date for filing rebuttal testimony in this docket until at least June 29, 2001. AT&T is very sympathetic to this request, as circumstances in this case - including the failure of Verizon to provide copies of the key proprietary portions of its case until late on May 15, 2001, or a full week late - have made it virtually impossible to comply with the current schedule.

For the reasons discussed below, AT&T proposes that the Department adopt the following revised schedule for this docket:

	Current Schedule	Proposed Schedule
Direct Cases Filed	May 8	May 8
Technical Sessions	June 4-5	June 4-5
Rebuttal Testimony	June 8	June 20

Surrebuttal Testimony	June 27	July 11
Evidentiary Hearings	July 9 - July 27	July 23 - August 10
Initial Briefs	August 24	August 31
Reply Briefs	September 7	September 14

This schedule would push back the hearing dates by two weeks, but would make up one of these weeks during the briefing phase, so that all briefing would still be complete by September 14. AT&T respectfully suggests that the time available for each phase under this revised schedule represents the absolute minimum time within which the phase can be completed. AT&T would like to see the proceeding as a whole concluded and UNE rates reduced substantially in Massachusetts at the earliest possible date. However, parties must be given sufficient time to provide proper rebuttal testimony so that the Department will have full information when it renders its decision. We hope that extending the final briefing date by one week would not materially alter the overall schedule for this proceeding.

Under the original schedule for this docket, five weeks were provided between the date for filing direct cases and the date for filing rebuttal testimony. AT&T and other parties had requested additional time for the preparation of rebuttal testimony, but the Department determined that this would not be possible given the Department's desire to have new UNE rates in place before the end of the calendar year. The consensus at the procedural conference is that five weeks would be the shortest possible time within which the parties could create and file rebuttal testimony that actually joins all material issues.

For a variety of reasons, the date for the filing of direct cases was moved three times. Ultimately, the parties were required to file and serve their entire direct cases on May 8, and the date for filing rebuttal testimony was moved to June 8, 2001. This reduced the time available for filing rebuttal testimony to only four and one-half weeks. AT&T has been working diligently and doing everything possible to meet the June 8 deadline for rebuttal testimony.

But now the time for preparing rebuttal testimony has been effectively cut to only three and one-half weeks, because Verizon failed to serve the proprietary portions of its direct case upon AT&T until late yesterday. Although Verizon must have known for some time that key portions of its cost case justification would be deemed proprietary, it made no arrangements for the circulation and signing of a protective agreement until six days *after* it was supposed to have already served its entire filing. Verizon distributed its proposed protective agreement by e-mail at 3:46 p.m. on Monday, May 14. AT&T immediately signed and returned the protective agreement, and received the voluminous proprietary materials late in the afternoon of May 15, 2001.

These proprietary materials in many ways go to the heart of Verizon's case. They contain the primary inputs to Verizon's switch cost and loop models, and also the numerical basis

for a wide variety of factors and inputs used throughout Verizon's cost studies. AT&T's witnesses cannot begin a complete analysis of the Verizon filing without these important proprietary materials.

The unfortunate result is that the current schedule does not leave enough time for CLECs to digest the thousands of pages of Verizon's cost filing, pose and receive responses to discovery, and draft and file meaningful rebuttal testimony. AT&T respectfully urges the Department to adopt the revised schedule proposed above, in order to give all parties the minimum essential time needed to put on a proper case.

Respectfully submitted,

Jeffrey F. Jones

Kenneth W. Salinger

Jay E. Gruber

Palmer & Dodge llp

One Beacon Street

Boston, MA 02108-3190

(617) 573-0100

Robert Aurigema

AT&T Communications, Inc.

32 Avenue of the Americas, Room 2700

New York, NY 10013

(212) 387-5627

May 16, 2001.